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9 February 1984

OGC 84-1453

MEMORANDUM FOR: Deputy Director, Office of Legislative Liaison

FROM:

Chief, Litigation & Legislation Division, OGC

SUBJECT: Impact of H.R. 3460, H.R. 4431 or S. 1324  
on Current FOIA Litigation

REFERENCE: Letter dated 2 February 1984, from  
Edward Boland, Chairman HPSCI, to  
Director of Central Intelligence

1. The reference requested the Agency to provide HPSCI with certain information in connection with hearings by the Subcommittee on Legislation on H.R. 3460 and other proposals to exempt certain CIA operational files from the search and review process of the Freedom of Information Act (FOIA). Specifically, you requested this Office to answer question (1) of the reference which reads: "List each pending FOIA case to which the CIA is a party and explain how and why each would be affected by passage of H.R. 3460, H.R. 4431, or S. 1324."

2. Attached is our analysis of the impact of the proposed FOIA legislation on active FOIA litigations involving the Agency. This analysis reflects our latest thinking on the impact of the bills on active litigations. It is important that this analysis not be misinterpreted by the Committee. First of all, the inclusion of any litigation in a particular category should not be interpreted as a commitment by the Agency with respect to future litigation strategy. The analysis is meant only to provide a general idea as to how various cases might be affected by the legislation. The analysis must be tentative because the legislation is not finalized and is subject to change as the legislative process proceeds. Additionally, it is impossible to give a more precise response without reviewing each and every document in each and every litigation. Many of the active litigations involve various kinds of documents derived from a variety of files. Thus an indication that a particular litigation would be affected by the legislation does not necessarily mean that the entire case would be affected. With these caveats in mind, the analysis responsive to this question is as follows:

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